



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,266	10/27/2003	Allen D. Polowinczak	501247.00277	2799
22908 7590 12/16/2008 BANNER & WITCOFF, LTD. TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606				
EXAMINER				
A. PHU DIEU TRAN				
ART UNIT		PAPER NUMBER		
3633				
MAIL DATE		DELIVERY MODE		
12/16/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/694,266

**Applicant(s)**

POLOWINCZAK, ALLEN D.

**Examiner**

PHI D. A

**Art Unit**

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-12, 16-19, 23, 24 and 41-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-12, 16-19, 23-24, 41-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10-12, 16-19, 23-24, 41-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant disclosure page 1 lines 5-24, figures 1, and 7 in view of Nash (442256).

Applicant disclosure page 1 lines 5-24, figures 1, and 7, shows all the claimed limitations except for a textured surface having a plurality of protrusions thereon, the protrusion extending a distance from the textured surface, the textured surface adapted to frictionally engage the separator such that the protrusions engage the separate, the protrusion covering the entire textured surface, each protrusion having a length, a width, a height that are substantially smaller than the length and width of the textured surface.

Nash discloses the use of protrusions (b') increase friction between two mating/contacting structures such that a clip (figure 2) better engage with its attaching structure (8) as it provides for extra friction between the mating surfaces.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Applicant's disclosure above to show a textured surface having a plurality of protrusions thereon, the protrusion extending a distance from the textured surface, the textured surface adapted to frictionally engage the separator such that the protrusions engage the separate, the protrusion covering the entire textured surface, each protrusion having a length, a width, a

height that are substantially smaller than the length and width of the textured surface since it having protrusions between two mating surfaces with one of them being flexible enhances the friction and anti-slippery between the surfaces as taught by Nash.

3. Claims 10-12, 16-19, 23-24, 41-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant disclosure page 1 lines 5-24, figures 1, and 7 in view of Hobbs (2835937).

Applicant disclosure page 1 lines 5-24, figures 1, and 7, shows all the claimed limitations except for a textured surface having a plurality of protrusions thereon, the protrusion extending a distance from the textured surface, the textured surface adapted to frictionally engage the separator such that the protrusions engage the separate, the protrusion covering the entire textured surface, each protrusion having a length, a width, a height that are substantially smaller than the length and width of the textured surface.

Hobbs discloses the use of protrusions (53) increase friction between two mating/contacting structures such that a clip (figure 3) better engage with its attaching structure as it provides for extra friction between the mating surfaces.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Applicant's disclosure above to show a textured surface having a plurality of protrusions thereon, the protrusion extending a distance from the textured surface, the textured surface adapted to frictionally engage the separator such that the protrusions engage the separate, the protrusion covering the entire textured surface, each protrusion having a length, a width, a height that are substantially smaller than the length and width of the textured surface since it

having protrusions between two mating surfaces with one of them being flexible enhances the friction and anti-slippery between the surfaces as taught by Hobbs.

4. Claims 11-12, 16-19, 23-24, 44, 46, 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant disclosure page 1 lines 5-24, figures 1, and 7 in view of Pourtau et al (5181357).

Applicant disclosure page 1 lines 5-24, figures 1, and 7, shows all the claimed limitations except for a textured surface having a plurality of protrusions thereon, the protrusion extending a distance from the textured surface, the textured surface adapted to frictionally engage the separator such that the protrusions engage the separate, the protrusion covering the entire textured surface .

Pourtau et al discloses the use of protrusions (2B, figure 1) such that a clip (figure 2) better engage with its attaching structure (8) as it provides for extra friction between the mating surfaces.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Applicant's disclosure above to show a textured surface having a plurality of protrusions thereon, the protrusion extending a distance from the textured surface, the textured surface adapted to frictionally engage the separator such that the protrusions engage the separate, the protrusion covering the entire textured surface since it enhances the attachment of one structure to another per the additional friction with the extra surface area as taught by Pourtau et al.

***Response to Arguments***

Applicant's arguments with respect to claims 10-12, 16-19, 23-24, 41-53 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the reference Pourtau et al is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the reference is reasonably pertinent to the particular problem with which the applicant was concerned. Applicant is concerned about enhancing the attachment of one structure to the next, with the one structure having a substantially hard, solid surface while the other structure is substantially flexible which mates with the hard surface. By forming protrusions on the solid surface, applicant increases contact surface area and frictional surface areas between the part 42 and part 28. Pourtau et al discloses protrusions (2B, figure 1) on the side of part 2. The part 2 mates with part 8. Part 8 connects part 2 and 9 together. The protrusions (2B) on part 2 increases contact surface areas between parts 2 and 8 which enhance the attachment of part 2 and 8 together. The combination of applicant's disclosure to part 42 and part 2B of reference to Pourtau et al, results in applicant's disclosed part 42 having enhanced, increased contact surface area which would better mate with part 28. The combination yields predictable result of improving the contacting surface of two structures. Per KSR, if a person of ordinary skill can implement a predictable variation, 103 likely bars its patentability; when a work is available in one field of endeavor,

design incentives and other market forces can prompt variations of it, either in the same field or a different one.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different device with protrusions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phi D A/  
Primary Examiner, Art Unit 3633

Phi Dieu Tran A  
12/11/08